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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,914	06/29/2000	Chingwei Peter Cheng	ORCL5638	2945

53156 7590 08/26/2005

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EXAMINER
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COLON, CATHERINE M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/607,914

Applicant(s)

CHENG ET AL.

Examiner

C. Michelle Colon

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-13,15-17,19-27,29-31 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,15-17,19-27,29-31 and 33-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The following is a Final Office Action in response to the communication received on June 13, 2005. Claims 1, 15 and 29 have been amended. Claims 4, 14, 18, 28, 32 and 42 have been canceled. Claims 1-3, 5-13, 15-17, 19-27, 29-31 and 33-41 are now pending in this application.

#### ***Response to Amendment***

2. The amendments to claims 1, 15 and 29 are acknowledged.

#### ***Response to Arguments***

3. Applicant's arguments have been fully considered, but are found unpersuasive. In the Remarks, Applicant argues that Deaton et al. does not teach or suggest an absolute value of a difference of the selected measure determined over two selected historical periods and that Deaton et al. does not teach or suggest a percentage measure growth of the selected measure over the two selected historical periods.

In response to the argument, Examiner respectfully disagrees. In Table 5, for example, Deaton et al. teaches two selected historical periods (10/01/91 to 12/01/91) during which various measures were taken of customers who shopped at a particular store including total dollar amount spent during the period, percent of the total dollar amount spent for the period, average check amount per visit, average dollar amount spent per customer, etc. Thus, in the example of the top line of Table 5, the selected measure may be the average dollar amount spent per customer and the absolute value

of the difference of the selected measure may be \$711.11 for the two selected historical periods, 10/01/91 to 12/01/91. As admitted in the rejection, Deaton et al. is lacking calculating the *percentage measure growth for the average dollar amount spent per customer* during the time frame. However, calculating a percentage of a growth (or decline) over two time periods, particularly in consumer sales, is well known in the art. An example of this is taught in Engler et al. (U.S. 6,633,851), where Engler et al. teaches determining the percent measure growth (i.e., the percentage of difference in sales) for a month of the current year with the same month of the previous year. Accordingly, as discussed in the rejection, although Deaton et al. does not expressly disclose calculating the percentage measure growth for the average dollar amount spent per customer during the time frame, it would have been obvious for Deaton et al. to do so since 1) Deaton et al. maintains the information necessary to compute such as calculation and 2) computing such a calculation would provide the system with enhanced information, particularly about consumer shopping trends, with which to conduct its targeted marketing, which is in line with the goal of the system of Deaton et al.

Therefore, Applicant's arguments have been fully considered, but found unpersuasive and the rejections are maintained and repeated below.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-13, 15-17, 19-27, 29-31 and 33-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deaton et al. (U.S. 5,638,457).

As per claim 1, Deaton et al. discloses a computer-implemented method of categorizing an individual customer, comprising the steps of:

selecting and storing in a computer a measure on which the status of the individual customer is to be analyzed (col. 5, lines 5-15; The status of a customer is measured by the customer's transactional history (i.e., frequency and dollar volume).);

selecting and storing in the computer a calculation period (col. 6, lines 8-11; The transaction frequency and dollar volume are determined over specified time intervals.);

causing the computer to compute a lifecycle factor (i.e., shopping frequency or dollar volume) for the individual customer, the lifecycle factor being computed by determining the difference of the transactional data over two selected historical periods (col. 6, lines 7-19; col. 61, lines 24-41; Tables 5 and 6 in col. 77-78; The system determines the frequency and dollar volume spent per customer per selected time interval. Based on the calculated frequency and dollar volume spent, the system can compute the average dollar amount spent per customer per time interval as well as the percent of the total dollar amount spent per time interval.), and

categorizing the individual customer by evaluating a plurality of categorization criteria, at least one of the plurality of categorization criteria including the computed lifecycle factor (col. 8, lines 1-13; Customers are categorized based on the criteria computed in Tables 5 and 6.).

Deaton et al. does not expressly disclose the lifecycle factor being computed by determining an absolute value of a difference of the selected measure *and by multiplying the determined absolute value with a percentage measure growth of the selected measure*, the percentage measure growth being determined over two selected historical periods according to the selected comparison method. However, as discussed above, Deaton et al. does disclose computing a selected measure for each customer such as frequency and dollar volume for each customer visit over two time periods (Table 5). Thus, Deaton et al. has readily available the data necessary to determine the percentage measure growth over two selected time periods of the selected measure (i.e., frequency and dollar volume) over two selected time periods. Additionally, Deaton et al. also discloses collecting and evaluating customers' historical transaction data to enhance the targeted marketing provided to the customers (col. 7, lines 56-60). Accordingly, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Deaton et al. to determine the percentage measure growth over two selected time periods since doing so would provide an indication of a customer's shopping trend (i.e., shopping more often and spending more money versus shopping less often and spending less money), thus

providing the system with data to use for enhancing targeted marketing efforts to customers, which is a goal of Deaton et al. (col. 3, lines 54-63; col. 6, lines 7-19).

As per claim 2, Deaton et al. discloses the method of Claim 1, wherein the measure is selected from a group including number of orders, quantity of purchase and revenue attributable to the individual customer (col. 5, lines 5-15; Table 5; The selected measure is the customer's transactional history (i.e., frequency and dollar volume)).

As per claim 3, Deaton et al. discloses the method of Claim 1, wherein the calculation period is selected from a group including daily, weekly, monthly, quarterly, semi-annually and yearly (col. 6, lines 8-11; The transaction frequency and dollar volume are determined over specified time intervals including day, week, month, quarter.).

As per claim 5, Deaton et al. discloses the method of Claim 1, wherein the categorizing step assigns a customer to one of a plurality of stages according to which of the plurality of categorization criteria is satisfied (col. 8, lines 1-13; Customers are categorized based on the criteria computed in Tables 5 and 6.).

As per claim 6, Deaton et al. discloses the method of Claim 5, wherein the plurality of stages includes at least one of New, Growing, Stable, Declining, Defected and Insignificant (col. 3, lines 60-62; The transactional data gathered from a customer is used to identify the customer as new or infrequent.).

As per claim 7, Deaton et al. discloses the method of Claim 6, wherein the New stage is based upon a date at which an account is established for the customer (col. 21, lines 30-33 and 45-50; col. 27, lines 9-19).

As per claim 8, Deaton et al. discloses the method of Claim 1, further comprising the step of selecting the customer according to at least one of a plurality of customer selection parameters (col. 60, lines 18-25, 34-37 and 64-67; col. 61, lines 7-11).

As per claim 9, Deaton et al. discloses the method of Claim 8, wherein the customer selection parameters include market segment, customer category, operating unit and geography (col. 60, lines 18-25, 34-37 and 64-67; col. 61, lines 7-11).

As per claim 10, Deaton et al. discloses the method of Claim 9, wherein the geography customer selection parameter includes at least one of a plurality of geographical sub-parameters, including area, country, region, state/province and city (col. 60, lines 18-25, 34-37 and 64-67; col. 61, lines 7-11).

As per claim 11, Deaton et al. discloses the method of Claim 8, wherein the customer selection step includes the step of accessing a remote database wherein customer information for a plurality of customers is stored (col. 4, lines 4-7 and 14-16).

As per claim 12, Deaton et al. discloses the method of Claim 11, wherein the accessing step accesses the database over a computer network (col. 4, lines 48-49; col. 9, lines 26-34; Figure 1).

As per claim 13, Deaton et al. discloses the method of Claim 12, including a computer network (col. 4, lines 48-49; col. 9, lines 26-34; Figure 1). However, Deaton et al. does not expressly disclose the computer network includes the Internet. It is old and well known that the Internet is a widely used network. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Deaton et al. to utilize the Internet because the Internet provides global



access, thus enabling the system to work in stores at great geographic distances from each other.

Claims 15-17, 19-27, 29-31 and 33-41 recite substantially similar subject matter as claims 1-3 and 5-13 above. Therefore, claims 15-17, 19-27, 29-31 and 33-41 are rejected on the same basis as claims 1-3 and 5-13 above.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Engler et al. (U.S. 6,633,851) discusses a system for generating reports of POS data;
- Giuliani et al. (U.S. 5,974,399) discusses a method for customizing purchase incentives based on consumer purchase behavior; and
- Blume et al. (U.S. 6,839,682) discusses predictive modeling of consumer behavior.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

***Commissioner for Patents***

Art Unit: 3623

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

or faxed to:

703-872-9306 [Official Communications; including After Final  
communications labeled "Box AF"]

571-273-6727 [For status inquiries, draft communication, labeled  
"Proposed" or "Draft"]

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August 19, 2005